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Washington, D.C. 20001-4413

In re Application of :
ZAOPO et al. :
Application No.: 10/518,352 : DECISION ON PETITION
PCT No.: PCT/EP02/07107 :
Int. Filing Date: 27 June 2002 :
Priority Date: None :
Attorney Docket No.: 05788.0337 :
For: POLYIMIDE OPTICAL WAVEGUIDES
AND METHOD FOR THE
PREPARATION THEREOF

This decision is issued in response to applicant's "Petition to Withdraw Holding of Abandonment under M.P.E.P. 711.03(c)" filed 12 September 2006, which is being treated as petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 27 June 2002, applicant filed international application PCT/EP02/07107 which claimed no priority date. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 January 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 27 December 2005.

On 17 December 2004, applicant filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application, and a preliminary amendment.

On 13 June 2005, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 03 August 2006, the United States Elected Office mailed a Notification of Abandonment under 37 CFR 1.495 (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements mailed 13 June 2005 within the time period set therein.

On 12 September 2006, applicant filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney filed 15 August 2005; a post card receipt dated 15 August 2005; and a transmittal letter dated 15 August 2005.

DISCUSSION

Applicant states in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 15 August 2005. A review of the present application reveals that the declaration and power of attorney filed 15 August 2005 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

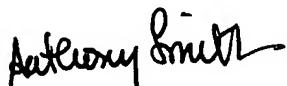
"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicant has provided a copy of their date-stamped filing receipt. The receipt identifies the application by applicant, title of invention, and application number. The receipt itemizes a declaration executed by the inventors. The receipt is stamped "Rec'd. OIPE AUG 15, 2005" across its face is sufficient to indicate that the declaration and power of attorney was in fact received in the Office on 15 August 2005.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

This application will be given an international filing date of 27 June 2002 and a date of **15 August 2005** under 35 U.S.C. 371. The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.



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